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COOLEY GODWARD LLP  
ATTN: PATENT GROUP  
11951 FREEDOM DRIVE, SUITE 1700  
ONE FREEDOM SQUARE - RESTON TOWN CENTER  
RESTON, VA 20190-5061

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**MAY 23 2003**

In re Application of  
Kenneth M. Martin et al  
Application No. 09/106,565  
Filed: June 29, 1998  
Attorney Docket No. IMMR-083/01US

OFFICE OF PETITIONS  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit issue fee and formal drawings in a timely manner in reply to the Notice of Allowability mailed July 14, 2000, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 15, 2000.

A grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply,<sup>2</sup> unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR

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<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

<sup>2</sup> In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).


The \$1300 issue fee has not been received. There is, however, no indication that corrected formal drawings as required by the Notice of Allowability of July 14, 2000 have been submitted. Accordingly, this application cannot be revived until the issue fee and the corrected formal drawings have been received.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

**By hand:** Crystal Plaza Four, Suite 3C23  
2201 South Clark Place  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy